

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>v.</b>	)	<b>Criminal No. 1:19-CR-253</b>
	)	
<b>KRISTOPHER LEE DALLMANN, <i>et al.</i></b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

On January 15, 2020, a Memorandum Opinion and Order (Dkts. 184 and 185) issued granting in part and denying in part the government's motion (i) to order defendants to declare long before trial whether they will assert an advice-of-counsel defense and (ii) to confirm waiver of the attorney-client privilege with respect to a memorandum. The motion was granted insofar as defendants were required, not later than ten days prior to trial, to declare whether any defendant intends to assert an advice-of-counsel defense. The motion was denied insofar as the government had requested that the defendants declare their intent at an earlier date.

The January 15, 2020 Memorandum Opinion and Order issued before Covid-19 had become a pandemic effecting the United States as a whole and impacting travel nationwide. The Covid-19 pandemic therefore creates additional barriers with respect to the government's ability to interview potential witnesses—who may well reside in Nevada— or otherwise investigate any advice of counsel in the event a defendant asserts an advice-of-counsel defense. Moreover, any attorney upon whose advice the defendants intend to rely may have to research the impact of any defendant's reliance on his ethical obligations and/or to discuss those obligations with his local bar organization. At a September 18, 2020 hearing on Defendants Kristopher Lee Dallmann and Jared Edward Jaurequi's violations of the conditions of their pretrial release, counsel for

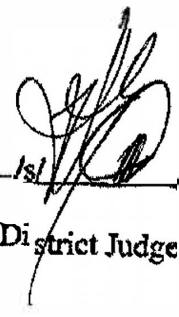
defendants Dallmann and Jaurequi indicated that they did not object to the deadline to disclose the advice-of-counsel defense changing from no later than ten days before trial to December 10, 2020. Given the difficulties imposed by the ongoing pandemic, including the difficulties of interviewing witnesses and the holiday travel season, it is fair and sensible to require that defendants to declare their intention to assert an advice of counsel defense not later than forty days before trial, or by **December 10, 2020**.

Accordingly, for the reasons stated here and the reasons stated from the Bench at the September 18, 2020 hearing,

It is hereby **ORDERED** that any defendant who intends to assert an advice-of-counsel defense must provide notice and any documents reflecting the advice of counsel not later than forty days prior to trial. Any such notice must include: (i) the names of any potential defense witnesses expected to testify at trial on the basis of the defense; (ii) any documents or other evidence related to the basis for the defense, including any documents reflecting or containing the advice of the attorney relied upon; and (iii) any documents or other evidence that would undermine the defendant's assertion of the defense. Trial is scheduled to begin Tuesday, January 19, 2021 at 10:00 a.m. Notice of an intent to assert an advice-of-counsel defense must therefore be filed by **Thursday, December 10, 2020**.

The Clerk is directed to provide a copy of this Order to all counsel of record.

Alexandria, Virginia  
September 22, 2020

  
\_\_\_\_\_  
T. S. Ellis, III  
United States District Judge